

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

Herman Miller, Inc.,

Plaintiff,

v.

Nuevo Americana, Inc.,

Defendant.

CASE NO. 1:12-cv-01225

Chief Judge Paul L. Maloney

**[PROPOSED] CONSENT
JUDGMENT
AND DECREE**

Plaintiff Herman Miller, Inc. (“Herman Miller”) and Defendant Nouveau Americana, Inc., (a/k/a, Nuevo Americana Inc. or Nuevo; hereinafter “Nuevo”) having resolved the dispute between them in this civil action thereby consent and agree to entry of judgment as follows:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

- 1. This Court has subject matter jurisdiction over the issues set forth in this civil action and personal jurisdiction over Herman Miller and Nuevo.**
- 2. Venue properly lies in this Court to adjudicate the issues set forth in this civil action.**
- 3. Herman Miller is the owner of all rights throughout the United States of America to the product configuration trade dress of the EAMES® Lounge Chair and Ottoman, which trade dress is subject to United States Trademark Registration No. 2,716,843 (hereinafter referred to as the “EAMES® Lounge Chair and Ottoman Trade Dress”). These rights are good and valid in law and in equity.**
- 4. Herman Miller is the owner of all rights throughout the United States of America to the product configuration trade dress of the EAMES® Aluminum Group™ and EAMES® Soft**

Pad™, which trade dress is subject to United States Trademark Registration No. 3,105,591 (hereinafter referred to as EAMES® Aluminum Group™ and EAMES® Soft Pad™ Trade Dress). These rights are good and valid in law and in equity.

5. Herman Miller is the owner of all rights throughout the United States of America to the trademark EAMES®, which trademark is subject to United States Trademark Registration No. 1,187,673. These rights are good and valid in law and in equity.

6. Nuevo, its officers, directors, agents, servants, employees, privies, successors, assigns, and attorneys, and all persons in active concert or participation with it, shall be and they are hereby and forever restrained and enjoined in all states of the United States, from using

(a) the EAMES® Lounge Chair and Ottoman Trade Dress, any product configuration that is a simulation, colorable imitation, reproduction, or copy of the EAMES® Lounge Chair and Ottoman Trade Dress, or any other variation that is likely to confuse consumers into believing that Nuevo is affiliated, connected, or associated with Herman Miller or that Herman Miller has originated, sponsored, or approved of that variation, and

(b) the EAMES® Aluminum Group™ and EAMES® Soft Pad™ Trade Dress, any product configuration that is a simulation, colorable imitation, reproduction, or copy of the EAMES® Aluminum Group™ and EAMES® Soft Pad™ Trade Dress, or any other variation that is likely to confuse consumers into believing that Nuevo is affiliated, connected, or associated with Herman Miller or that Herman Miller has originated, sponsored, or approved of that variation.

7. Consistent with the prohibited acts described in the preceding Paragraph, Nuevo will not offer to sell, sell, advertise, or otherwise display any furniture product that incorporates Herman Miller's EAMES® Lounge Chair and Ottoman trade dress, Herman Miller's EAMES® Aluminum Group™ and Soft Pad™ trade dress, or any confusingly similar variations thereof, on

any Nuevo website (including, but not limited, to www.nuevoliving.com), which can be accessed in any state of the United States.

8. This Court will retain jurisdiction for the purpose of enforcing the terms of this Consent Judgment and Decree.

Dated: _____

HON. PAUL L. MALONEY
CHIEF JUDGE, U.S. DISTRICT COURT

Dated: _____

HERMAN MILLER, INC.



Mr. James. E. Christenson
Senior Vice President

Dated: _____

NOUVEAU AMERICANA, INC.



Mr. Douglas Leuty

Its: V.P. Finance

APPROVED AS TO FORM AND CONTENT:

Dated: January 25, 2013

By: /s/ Douglas H. Siegel
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